

## **REMARKS**

The last Office Action of August 17, 2009 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 20-43 are pending in the application. Claims 32-39 have been withdrawn from further consideration due to an earlier election/restriction requirement. Claims 20, 30, 40, 41, 42 have been amended. In addition, withdrawn independent claim 32 has been amended. No claims have been canceled or added. No amendment to the specification has been made. No fee is due.

### **CLAIM REJECTIONS - 35 U.S.C. §112, SECOND PARAGRAPH**

Claims 20-31, 40-43 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner based the rejection on the use of the designation DIN EN 10027 Part 1. The rejection is respectfully traversed. This designation relates to a European standard intended to replace national standards in various countries of Western Europe. An expert in the field of metallurgy is well aware what this norm entails. EN 10027 Part 1 is a steel material designation involving steels designated on the basis of their use and mechanical properties or on the basis of their chemical composition.

It is applicant's contention that the reference to the designation DIN EN 10027 Part 1 is clear and definite and relates to a particular steel standard that is known to the artisan.

Withdrawal of the rejection under 35 U.S.C. §112, second paragraph is thus respectfully requested.

### **CLAIM REJECTIONS - 35 U.S.C. §103**

Claims 20-27, 30, 31, 40-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent Document JP 2000234887 to Torigoe.

Claims 20-27, 30, 31, 40-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,339,868 to Naoi et al.

Claims 28, 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Torigoe or Naoi et al., and further in view of U.S. Pat. No. 5,070,937 to Mougin et al.

The rejection under 35 U.S.C. 103(a) is respectfully traversed in view of the amendments to independent claims 20, 30, 40-42 and the following remarks.

Applicant has amended claims 20, 30, 40-42 by setting forth the structural relationship between the tube bends and intermediate region in relation to the longitudinal axis of the tube portion, and the formation of the tube portion from a single-piece centrifugally cast tube. Support therefore can be found in paragraphs [0004], [0013] and [0035] of the instant specification.

Torigoe discloses a heat exchanging bent tube which is bent from a straight tube. Torigoe fails to disclose a tube portion having between opposite tube bends an intermediate region in which there is no change in orientation of the longitudinal axis of the tube portion.

The same argument also applies to the Naoi et al. reference which merely discloses a bending of a pipe into a 90° bent pipe. There is no disclosure of two tube bends in which an orientation of the longitudinal axis of the tube portion changes continuously, and an intermediate region between the tube bends in which an orientation of the longitudinal axis remains unchanged

For the reasons set forth above, it is applicant's contention that neither Torigoe nor Naoi, nor a combination thereof teaches or suggests the features of the present invention, as recited in independent claims 20, 30, 40.

Since claims 21-29, 43 depend from claim 20, and claim 31 depends from claim 30, claims 21-29, 31, 43 contain all the limitations of claims 20 and 30,

respectfully. As such, claims 21-29, 31, 43 are patentable over the applied prior art in the same manner as claims 20 and 30, respectively.

Withdrawal of the rejection under 35 U.S.C. §103(a) is thus respectfully requested.

## **CITED REFERENCES**

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the claims on file. It is thus felt that no specific discussion thereof is necessary.

## **CONCLUSION**

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

The Examiner is also requested to withdraw the restriction requirement and to rejoin nonelected claims 32-39 in accordance with M.P.E.P., Section 821.04, relating to rejoinder of non-elected invention, because these claims require all the limitations of presumably allowable claim 20.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant

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would greatly appreciate such a telephone interview.

Respectfully submitted,

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